

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: COLUMBIA UNIVERSITY  
PATENT LITIGATION

MDL NO. 1592

Judge Mark L. Wolf

**AFFIDAVIT OF MICHAEL S. D'ORSI IN SUPPORT  
OF ABBOTT BIORESEARCH CENTER'S OPPOSITION  
TO COLUMBIA UNIVERSITY'S EMERGENCY MOTION  
TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION**

I, Michael S. D'Orsi, hereby state that:

1. I am a member in good standing of the district bar of this Court and a partner in Donnelly, Conroy & Gelhaar, LLP, counsel for Plaintiff Abbott Bioresearch Center in this action.

2. I make this affidavit in support of Abbott Bioresearch Center's Opposition to Columbia University's Emergency Motion to Dismiss for Lack of Subject Matter Jurisdiction.

3. Attached to this Affidavit as Exhibit A is a true and accurate copy of Columbia's Covenant Not To Sue Plaintiffs For Infringement Of The '275 Patent As It Presently Reads For Products Made, Used Or Sold On Or Before The Date Of This Covenant, dated September 1, 2004.

4. Attached to this Affidavit as Exhibit B is a true and accurate copy of the September 10, 2004 letter from David I. Gindler to Counsel of Record for Plaintiffs.

5. Attached to this Affidavit as Exhibit C is a true and accurate copy of the September 13, 2004 letter from David I. Gindler to Mark A. Pals, Esq.

6. Attached to this Affidavit as Exhibit D is a true and accurate copy of the September 15, 2004 letter from Kirke M. Hasson to David I. Gindler, Esq. and Wayne M. Barsky, Esq.

7. Attached to this Affidavit as Exhibit E is a true and accurate copy of the September 17, 2004 letter from David I. Gindler to Counsel of Record for Plaintiffs.

8. Attached to this Affidavit as Exhibit F is a true and accurate copy of the September 20, 2004 letter from David I. Gindler to Claire Laporte, Esq.

9. Attached hereto as Exhibit G is a true and accurate copy of the License Agreement dated June 1, 1995 between Columbia University and BASF Bioresearch Corporation.

10. Attached hereto as Exhibit H is a true and accurate copy of the March 9, 2004 letter from Michael J. Cleare, Ph.D. to Abbott Bioresearch Center, Inc.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed on September 22, 2004.

/s/ Michael S. D'Orsi  
Michael S. D'Orsi